

The Honorable Richard A. Jones

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

STATE OF WASHINGTON; *et al.*,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF  
STATE; *et al.*,

Defendants.

NO. 2:20-cv-00111-RAJ

DECLARATION IN SUPPORT OF  
STIPULATED MOTION TO  
MODIFY THE DEADLINE FOR  
PRODUCTION OF THE  
ADMINISTRATIVE RECORD

I, Joseph N. Khawam, declare as follows:

1. I am an Attorney-Adviser in the Office of the Legal Adviser within the U.S. Department of State (the Department). I provide legal counsel to the Directorate of Defense Trade Controls (DDTC) within the Department's Bureau of Political-Military Affairs and have served in this position since May 2019.
2. I am providing this declaration to explain why the Department will need an additional 60 days, until September 23, 2020, to compile the administrative record in the above-captioned case. The statements made herein are based on my personal knowledge and information made available to me in the course of my duties.
3. I am one of two Department attorneys primarily responsible for this case. Among my responsibilities are managing the collection, review, and processing of documents that constitute the administrative record.
4. In mid-March, 2020, approximately one week after this Court entered a partial preliminary injunction on March 6, State Department employees, including those in the Office of the Legal Adviser, began teleworking from home in response to the Covid-19

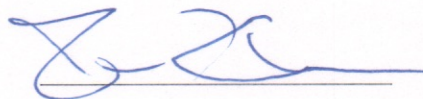


1 pandemic. At the time that we were asked to provide an estimate of a completion date for  
2 the administrative record, we were in the process of discovering the limitations and  
3 disruptions to our work occasioned by the transition to a full telework environment.

- 4 5. In March, 2020, even before the Court entered its scheduling order in this matter, we  
5 commenced the process of compiling the administrative record by canvassing persons  
6 involved in the rulemaking process, identifying a wide set of materials to review and  
7 determining that electronic searches of Department information systems, both classified  
8 and unclassified, would be necessary in order to complete the collection of documents  
9 that potentially belong in the administrative record.
- 10 6. To ensure that the administrative record is comprehensive, we took a broad approach in  
11 establishing the scope of the initial electronic searches, which returned approximately  
12 14.2 GB worth of documents, amounting to roughly 53,000 documents.
- 13 7. We determined that, in light of our limited personnel resources and the limitations we  
14 faced working remotely on the State Department network, review of these documents  
15 could only be completed in a reasonable time by obtaining litigation support assistance  
16 through a government contract. The solicitation, funding, approvals, and coordination  
17 required for such a contract took several weeks to arrange, and we have since been  
18 overseeing and managing that process. The supervised contractors recently concluded  
19 their first-stage review on July 15, 2020. The result of that review found approximately  
20 3.97 GB of potentially relevant documents, totaling about 7,800 documents and roughly  
21 134,000 pages for further review. We have already begun reviewing those processed  
22 documents for both relevance and privilege.
- 23 8. Meanwhile, working around the severe limitations on in-office work hours necessitated  
24 by the pandemic, we have collected and reviewed individually an additional set of more  
25 than 13,000 pages of electronic documents that would not be transferred to the contractor,  
26 such as documents that originated on classified information systems. My colleagues and  
27 I in the Office of Legal Adviser have completed review of these latter documents for  
relevance and privilege.
9. What remains to be conducted are privilege reviews on the contractor-processed  
documents, along with quality control reviews, and the mechanical process of compiling  
the record from the identified documents, as well as review and approval by senior  
officials. Based on our experience to date, the Department estimates it needs until  
September 23, 2020 to provide the full administrative record.

I declare under penalty of perjury that the foregoing is true and correct to the best of my  
knowledge.

Executed this 21<sup>st</sup> day of July, 2020.



Joseph N. Khawam



Attorney-Adviser  
Office of the Legal Adviser  
U.S. Department of State

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27